

ODA Proposed Chlorpyrifos Rule History and Overview

OAR 603-057-0545

Rulemaking Hearing August 19, 2020

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Background Issues- Chlorpyrifos

The primarily agricultural insecticide chlorpyrifos has been in use since 1965. Labeled for use on a wide variety of crops. Effective and inexpensive foliar and soil insecticide.

- For decades, health concerns have been expressed and various label changes, including restrictions on use (esp. residential), have been implemented at the federal level by EPA. Long regulatory history.
- **Oregon Legislature** - Multiple bills over the last several years have been introduced and heard. However, none of the bills have completed the process and were enacted into law.
- **Oregon Attorney General** - joined a lawsuit in 2019 “... against the Environmental Protection Agency (EPA) for allowing chlorpyrifos, a pesticide that can harm infant and child neurological development”.

Process

In December 2019, ODA launched a workgroup to help ODA evaluate uses and potential future restrictions on chlorpyrifos in the state of Oregon.

- Three meetings between December 2019 and May 2020, the workgroup learned about:
 - Pesticide exposure pathways
 - Existing requirements to protect workers, the public, and the environment from exposure, and
 - Conclusions from various chlorpyrifos risk assessments.
- The workgroup reviewed and provided feedback on several possible additional protection measures.
- ODA considered this feedback together with information available from chlorpyrifos risk assessments. Additional meeting August 31.

Process – Workgroup Members

- Lisa Arkin, Beyond Toxics
- Martha Sonato, Pineros y Campesinos Unidos del Noroeste
- Karen Lewotsky, Oregon Environmental Council
- David Farrer, Oregon Health Authority
- Jeff Jenkins, Oregon State University
- Fred Berman, Oregon Health and Science University and Oregon State University
- Chal Landgren, Oregon State Univ.
- Pete Brentano, Farmer, Oregon Board of Agriculture member
- Scott Dahlman, Oregonians for Food and Shelter
- Jenny Dresler, Oregon Farm Bureau, Associated Oregon Hazelnut Industries
- Bryan Ostlund, Oregon Seed League, and numerous commissions
- Dave Phipps, Golf Course Superintendents Association of America
- Jeff Stone, Oregon Association of Nurseries

ODA has proposed a rule (OAR) to significantly limit or restrict the use of the chlorpyrifos.

Why is ODA proposing to limit the use of chlorpyrifos?

ODA regulates the safe application of pesticides in Oregon. These regulatory changes related to chlorpyrifos reduces risks, and increases safety to applicators, farm workers, bystanders, consumers and the environment.

Primary Human Health Concerns

- Neurodevelopmental concerns
- Concerns that with chronic occupational exposure, chlorpyrifos could be neurotoxic

Note – There have been inconsistent outcomes of the various health assessments and studies conducted

ODA Focus Reduce Risk by Reducing Possible Exposure

$$\text{Risk} = \text{Exposure} \times \text{Toxicity}$$

- Occupational exposure
 - Applicators and other pesticide handlers
 - Workers and residues on treated plants
- Bystander exposure
- Drift and post-application volatilization
- Drinking water
- Aquatic life



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How does this proposed rule reduce exposure?

- Classifies all products as restricted-use, and requires that only certified and licensed applicators are able to purchase and apply chlorpyrifos. No supervision of noncertified applicators.
- Prohibits certain uses starting in fall 2020 : on golf courses, for vector (mosquito) control and many greenhouses uses.
- Limited its use on Christmas trees to only between April 1 and June 15.
- Farm workers will now have to wait a minimum of 4 days instead of only 24 hours, to enter treated fields without wearing personal protective equipment.
- Respirator protections for applicators are updated.
- Large buffers are required between treatment sites and sensitive areas (includes farm worker housing) and permanent waterways.

As of December 31, 2023, it will be prohibited to use or sell chlorpyrifos, with a few exceptions.

Eventually all chlorpyrifos uses will be phased out except:

- Those uses already allowed on pesticide labels for granular formulations and seed treatments.
- A pest emergency is declared by order of the Director of the Oregon Department of Agriculture.
- Cattle Ear Tags*

* exempted from proposed rulemaking



Oregon Department of Agriculture Pesticides Program

Thank you
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1) All products that contain any amount of chlorpyrifos (“chlorpyrifos-containing product”) are classified as **restricted-use pesticides**.

(2) On and after November 1, 2020, the use of a chlorpyrifos-containing product is limited as follows:

(a) Application of such product is prohibited:

(A) For vector control purposes;

(B) On turfgrass on golf courses; and

(C) In an enclosed space production structure, except when one of the following conditions is met and maintained until the expiration of the REI:

(i) The structure has open sidewalls and ridge or roof vents, in which the combined open vented area is at least 40% of the floor area of the structure; or

(ii) The structure has at least 50% of the total roof area open; or

(iii) The structure has open end-walls and open sidewall vent areas, in which the combined open vented area is at least 40% of the floor area of the structure.

(b) The minimum restricted entry interval **(REI) is four days for all agricultural plants** listed on the pesticide label, under the Worker Protection Standard, 40 CFR 170.

(3) On and after January 1, 2021, the use of a chlorpyrifos-containing product is limited as follows:

- (a) Application to Christmas trees is authorized only between April 1 and June 15 of each year, inclusive, and is prohibited at all other times;
- (b) Any application must be conducted by a certified and licensed: pesticide applicator, public applicator or private applicator;
- (c) Pre-application activities involving mixing or loading must be conducted by:
 - (A) A certified and licensed: pesticide applicator, public applicator, or private applicator; or
 - (B) An individual who has successfully completed a special training conducted or approved by the Oregon Department of Agriculture on the mixing and loading of chlorpyrifos. The training must be completed annually and a record of the training maintained for three years from the date of the training, and available for review and inspection by the department;

(3) On and after January 1, 2021, the use of a chlorpyrifos-containing product is limited as follows:

(d) Pesticide applicators, and mixer and loaders must wear a minimum of the following personal protective equipment, which must be approved by the National Institute for Occupational Safety and Health (NIOSH):

(A) Particulate filtering face piece respirator with any N, R, or P filter, as defined and approved under 42 CFR Part 84;

(B) Elastomeric particulate respirator with any N, R, or P filter, as defined and approved under 42 CFR Part 84; or

(C) Powered air purifying respirator with HE filters, as defined and approved under 42 CFR Part 84.

(e) All private applicators shall prepare and maintain records of applications of chlorpyrifos-containing products for the period of at least three years from the date of application. These records must be available during business hours for review and inspection by the department. At a minimum, such records must include the following:

.....

(4) For purposes of this chlorpyrifos rule, “sensitive sites” means areas frequented by non-occupational bystanders (especially children).

These include, without limitation, homes and other residential buildings, farmworker housing, residential lawns, schools, daycare centers, nursing homes, hospitals, pedestrian sidewalks, outdoor recreational areas such as school grounds, athletic fields, and parks,

and all property associated with buildings occupied by humans for residential or commercial purposes.

Not included in this Definition

- Non-residential agricultural buildings, including barns, livestock facilities, sheds, and outhouses are not included in this definition.
- In addition, public and private roadways, including rights of way are not included in this definition.

(5) Buffer Requirements.

Buffers are areas between the application sites and protected areas where chlorpyrifos-containing products may not be applied, as described in subsections (b) through (e).

If more than one buffer applies to a particular application then the application must comply with the largest applicable buffer. Buffers must be measured as follows:

(A) For sensitive sites, from the edge of the sensitive site to the edge of the application site; and

(B) For permanent bodies of water, from the ordinary high-water mark of the waterbody and extending outward to the edge of the application site.

Airblast - Buffers

(b) When a chlorpyrifos-containing product is applied using **aerial application equipment or non-targeted airblast application equipment**, it may not be applied within 300 feet of:

(A) Sensitive sites; or

(B) Permanent bodies of water such as rivers, natural ponds, lakes, streams, reservoirs, marshes, estuaries, and commercial fish ponds.

(c) When a chlorpyrifos-containing product is applied using a **targeted airblast sprayer, such as a tower sprayer, tunnel sprayer or an airblast sprayer** with anti-drift panels, it may not be applied within 150 feet of:

(A) Sensitive sites; or

(B) Permanent bodies of water such as rivers, natural ponds, lakes, streams, reservoirs, marshes, estuaries, and commercial fish ponds.



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(d) When a chlorpyrifos-containing product is applied by **chemigation or ground equipment**, it may not be applied within 60 feet of:

(A) Sensitive sites, unless it is a granular formulation product that is applied above-ground using ground equipment; or

(B) Permanent bodies of water such as rivers, natural ponds, lakes, streams, reservoirs, marshes, estuaries, and commercial fish ponds.

(e) When a granular formulation chlorpyrifos containing-product is applied above-ground using ground equipment, it may not be applied within 60 feet of permanent bodies of water such as rivers, natural ponds, lakes, streams, reservoirs, marshes, estuaries, and commercial fish ponds.

(6) After December 31, 2023, it is prohibited to use, deliver, distribute, sell, offer or expose for sale any chlorpyrifos-containing product, except when:

(a) Labeled for use as, and used as, a commercial pre-plant seed treatment;

(b) Formulated as, and used as, a granular product; or

(c) A pest emergency is declared by order of the Director of the Oregon Department of Agriculture authorizing the use of chlorpyrifos, and the use is consistent with such order.

(7) Use of a chlorpyrifos-containing product on cattle ear tags is excluded from the limitations in 603-057-0545 (1) - (6).



Oregon Department of Agriculture Pesticides Program

**For questions on rule, contact :
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